89-796

Supreme Court, U.S.
FILED
SEP 29 1989
JOSEPH F. SPANIOL, JR.
CLERK

No. ~~89-965~~

IN THE
SUPREME COURT OF THE UNITED STATES
October Term, 1989

RE:

EARLENE POLYAK

PETITION FOR WRIT OF PROHIBITION
AND WRIT OF MANDAMUS
FROM THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE

EARLENE POLYAK
4063 Hood Road
Palm Beach Gardens
Florida 33410
(407) 627-3564
-and-
3179 Middlefield Dr.
Trenton, Michigan 48183
(313) 676-3364

QUESTIONS PRESENTED

1. Does the Constitution provide for due process to the pro se litigant and is the sale of properties protected by Tennessee Statute Partition in Kind 29-27-119 without jury trial, any compensation, and without appeal ever being heard in any Court constitutional?

2. Should pro se litigant be sanctioned for complaints against various persons in the District Court by the denial of due process and deprivation of civil and constitutional laws and property rights?

3. Should writ of mandamus issue to review the denial of federal protection of equal protection of loss of property of disabled person?

4. Should writ of prohibition issue against unconstitutional sale of property and all cases be reinstated for jury trials?

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IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1989

IN RE:

EARLENE POLYAK

PETITION FOR WRIT OF PROHIBITION AND WRIT OF MANDAMUS FROM THE MIDDLE DISTRICT OF TENNESSEE

Petitioner prays that a writ of prohibition against the sale of her properties in the Middle district of Tennessee pending review of this Case No.89-365 Earlene Polyak v Thomas Stack And Henry Henry & Stack, and 1:86-0036 Earlene Polyak v William Boston,Boston And Boston Bates & Holt, and withholding order for appeal, in writ of mandamus to the Honorable Thomas A. Higgins, pursuant to 28 U.S.C. 1651.

Petitioner seeks review of dismissals of all companion cases,including 88-1964, Earlene Polyak v Jim Hamilton, Judge in Chancery 1974, and Circuit 10647, presently on writ of certiorari before this Supreme Court. No.88-1964 is from the Supreme Court of Tennessee.

OPINIONS BELOW

The opinions of the United States Court of Appeals for the Sixth Circuit are set forth in in the brief in 89-365.the opinions of the United States District Court for the Middle District of Tennessee are set forth in the brief in 89-365. And the opinions in the companion cases to 89-365 Earlene Polyak v Thomas Stack Henry Henry & Stack are set forth in brief in Appendix C.

The recent opinions in new evidence in No. 1:86-0036 Earlene Polyak v William Boston Boston Bates & Holt, Middle District of Tennessee are sset forth in this brief Appendix A.

JURISDICTION

The order dismissing 1:86-0036 Earlene Polyak v William Boston Boston Bates & Holt for reasons withheld from pro se litigant was issued on September 15, 1989.

The jurisdiction of this Court is invoked pursuant to 28 U.S.C. 1651.

The jurisdiction of this Court is invoked in diversity of citizenhip pursuant to Article IIISec. 2.

CONSTITUTIONAL PROVISIONS

The pertinent portion of the Fifth Amend ment is as follows:

> No... person shal be deprived of life, liberty or property without due process of law; nor shall private property be taken for public use without just compensation.

U.S. Cosnt. Amend. V.

he pertinent portion of the Seventh Amendment is as follows:

> ...where the value in controversy shall exceed twenty dollars, the right of jury trial shall be preserved.

U.S. AMen.VII.

The pertinent portion of the Fourteenth Amendment is as follows:

> No state shall make or enforce any law which shall abridge the priveleges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property without due process of law, nor deny any person within its jurisdiction equal protection of the laws.

U.S. Const. Amen. VII.

All pertinent constitutional laws and and state statutes set forth in brief 89-365.

STATEMENT OF THE FACTS

On August 21, 1987, Counsel Robert Boston, son of William Boston, Boston Bates & Holt, submitted second order to sell property in Chancery 1974, on his invalid lein upon Petitioner's"interest therein" to Honorable Jim Hamilton, Judge for Lawrence County, to be advertised "no less than 21(twenty-one) days following this order(Counter-clain87-0075).

On June 22, 1988, Affidavit of party reading adverstiement after dismissal 1:85-0125 (89-365) filed in District Court,June 3, 1989. Party places add with mobile unit about November 1987, in Lawrence County "Advocate."

On October 20-30, 1987, Petitioner was in Cardiac Unit University of Alabama Hospital, and then Florida during winter. She has not been notified of date of sale,amount of proceeds, and entry of order for appeal and right of redemption by Tennessee laws.

Thomas Stack and Henry Henry & Stack were awarded attorney fees in order October 19,1983.

STATEMENT OF THE CASE

Since affirming of conflict of interest and failure to rescue, and denial of stay in the sale of Petitioner's properties, by the United States Court of Appeals for the Sixth Circuit in 87-5717/63/94(89-365) all complaints for relief have been denied filing,timely and property motion to rescue denied, and case 1:86-0036 has been dismissed by the Honorable Thomas A. Higgins United States District Court, Middle District of Tennessee, Columbia Division on September 23, 1989.

This motion to rescue because of Petitioner's belief that Judge Higgins' biased to local residents and prejudiced to non-resident female pro se litigant was submitted pursuant to 28 U.S.C. 144, and filed on August 3, 1989, prior to denial September 15,1989(App.A.p.2).

On September 15, 1989, Judge Higgins dismissed 1:86-0036 Earlene Polyak v William Boston, And Boston Bates & Holt at second pretrial conference for reasons stated in the

in the record at the hearing (App. A. p.17).

Petition suffers from heart-failure and complications, and became ill with sinus infection about August 15, with blocked hearing and complications. She submitted Motion for Continuance in Reply to Robert Boston's Motion to continue jury trial, but disregarded on September 6, 1989.

Motion due to burden her appearance in Court would place upon her health , and due to heart problem and early winter in Michigan,Petitioner cancelled scheduled heart catherization, and her son drove her to Florida.

Petitioner submitted second Motion for Continuance and Motion to Transfer 1:86-0036 to the United States District Court, Southern District of Florida, 701 Clematis Street,West Palm Beach Florida 33401, pursuant to 28 U.S.C. 1404(a).

On September 15, 1989, Judge Higgins dismissed 1:86-0036, for reasons stated on the record at the hearing (App. A.p. 18).

Petitioner has not been notified as to what reasons the Court denied motion to rescue and motion for continuance and dismissed case 1:86-0036. She has made numerous expensive long distance telephone calls to the Clerk's Office, and left messages on recorder but all attempts to gain information for appeal has been disregarded.

In addition to motion for continuance with medical statements as to condition of health sent by expensive Express Mail delivered to the Court on September 14, 1989, Petitioner sent FAX message to Judge Higgins on September 15, 1989(App.

Petitioner submitted complaints for relief for the unconstitutional sale of her properties to parties benefiting from the "taking"of her properties from a disabled person.

These complaints and demand for jury trials were grounded in "NEW EVIDENCE" of the sale of propeties without jury trial, any

compensation and without appear ever being heard in any Court.

No. 3:89-X-16 Earlene Polyak v Wilma Lesnansky and Frank Hulen denied filing as a regular case,and motion for rehearing en banc January 30, 1989. This complaint for relief in damages of transfer and sale of United States Department of Agriculture Burley Tobacco Allotment without signature and payment

On November 11, 1989, Petitioer observed what appeared to be division of land between Frank Hulen and wilma Lesnansky.

No. 1:89-X-01, Earlene Polyak v Buford Evans & Sons for"wrongful lawsuit" for entering upon property and conducting invalid survey. They do not have surveyor's liscense and Petitioner subjected while acutely ill to trial which was denied filing as a regular case.

The additional complaints and demands for relief in jury trials were taken under NEW EVIDENCE of unconstitutional sale of property to set aside order pursuant to ule 60.02(b)

Federal Rules of Civil Procedure. Petitioner asked the Court to consider independent action for fraud upon the Courts. She submitted docket fee as most motions disregarded by the Court.

1:89-X-05, Frank Hulen and Wilma Lesnansky v Earlene Polyak initial 84-0082 denied filing as a regurlar case.(Counter-claim 1:84-0082)

1:89-X-06(1:84-0083) Earlene Polyak v Frank Hulen and Wilima Lesnansky for right and severalty in Partition in Kind TCA 29-27-117, denied filing as a regular case.

1:89-X-04 (1:85-0116) Earlene Polyak v Jim Hamilton and the Circuit court of lawrence County denied filing. complaint and demand for Jury Trial in denied of right to Appeal TCA Rule 3, and denial of due process and deprivation of civil and constitutional laws and property rights under usuage 42 U.S. 1983.

Judge Higgins denied motion to forward records for appeal Court of Appeals in all above, and alleges cases closed.

1-89-X-12(1:87-0075) Frank Hulen and

Wilna Lesnansky v Earlene Polyak denied filing as a regular case. This complaint and demand for relief in jury trial to set aside order dismissing Counter-claim against Robert Boston's second order to sell property August 21, 1987.Clerks tile all cases same.

Judge Higgins disregards writ of Habeas Corpus to bring cases 1:87-0075(1-84-0082 & 1:84-0083),alleged closed cases before the Court on September 29, 1989(APP. A.p.

Contrary to Judge's order this case was properly and timely removed, and sale of property took place immediately after remand to stat Court.Petitioner alleges that District court has authority to grant jury trial for damages in unconstitutional sale of property pursuant to Rule 60.02(b) under the same state case used in Henry Henry & Stack for directed verdict in Erie Railroad v Tomlisnon,

REASONS WHY WRITS SHOULD ISSUE

Petitioner seeks review of all dismissals of complaints, reasons withheld for dismissals in 1:86-0036, and prays that a writ of mandamus issue to rescue from all or her cases to the Honorable Thomas A. Higgins.

Petitioner prays that a writ of prohibition issue to prohibit the unconstitutional sale, confirmation of sale, and prohibiting the dismissal of 1:86-0036. She contends that this Supreme Court can no longes sanction the continued dismissals in discrimination against disabled in "taking of her properties" in the departure of avowed constitutional protection in the United States District Court.

1. THE DISTRICT COURT CONTINUE TO ACT AGAINST MOTION TO RESCUE PURSUANT TO FEDERAL LAWS

The motion to rescue to the Honorable Thomas A. Higgins was timely and properly before the Court ten days before alleged jury trial on October 17, 1989.Petitioner has submitted motions to disqualify in other cases,

which had been disregarded and denied.

Motion to disqualify in 1:85-0125, and 1:86-0036 submitted on September 23, 1986, were denied by Judge Higgins on September 24, 1987,without allowing five days for objection, Judge acted in remand on Petitioner's timely removal of Robert Boston's order to sell property in complaint and counter-claim for jury trial in the U.S. District Court 1:87-0075.

This Complaint and counter-claim was held without filing to order of August 21, 1987, submitted on August 24, to September 29, 1987. Complaint to separate and initial order to sell property on Robert Boston's invalid lein upon Petitioner's "interest therein" was time ly with notification to state court, good and sure bond with one hundred twenty($120.00) filing fee. Court cashed check and remanded case.

Judge Higgins disregarded motion to disqualify in 1:85-0125, but after Judge asked Thomas Stack and Bruce Peden to stand and

introduced them as lawyers to the jury in open display of bias, Petitioner again asked Judge Higgins to disqualify on May 31,1988.

Petitioner overheard Judge Higgins state "Iam a lawyer, I think in terms of one-third"

> And the relevant factors determining whether the act of a judge is a "judicial one" relates to the nature of the act itself, whether it is a function normally performed by a judge to the expectation of the parties. Stumpt v Sparkman,435 US at 1107.

Petitioner does not have any knowledge or espertise in the legal profession, but she she believes it is only common sense that a thing is all good, and a thing is all bad. She did not expect that all of her complaints petitions,most all motions, and cases regard-constitionually provided protection in life, liberty and property rights would be dismiss ed and moved for rescue under 28 USC 144:

> Whenever a party at any proceeding in a district court makes and files a timely affidavit that a judge before whom a matter is pending has a personal bias or prejudice either against him or in favor of party, Judge shall proceed no further,but another judge shall be assigned to hear proceeding.

2. THE DISTRICT COURT DISCRIMINATES AGAINST DISABLED PETITIONER IN WITHHOLDING THE REASONS FOR DENIAL OF RESCUE AND DISMISSAL TO APPEAL IN BIAS FOR DEFENSE

Petitioner has been acutely ill since mid August.She was too ill to take heart persantine test when her son drove her to warm climate, and submitted motion for continuance and to transfer 1:86-0036 to Florida. She was obligated to seek immediate medical attention on September 15, 1989. Petitioner was referred to Cardiologist and immediately admitted to Palm Beach Gardens Hospital.

Petitioner has no control over heart-disease and the many complications, or when she will be hospitalized for treatment.

Petitioner was present for parital hearing within two days after demanding her release from Cardiac Unit of Vanderbilt Hospital on May 31, and appeared at each partial hearing for four days at until dismissal at United States District Court, Nashville, Tennessee on June 3, 1988.

On May 31, to June 3, 1988, Petitioner tried to present case after Judge Higgins started shouting at her with the first witness on subpoena and took over questioning.Petitioner believes each testimony biased to the defense of 1:85-0125, and 1:86-0036. In object to dismissal on directed verdict, she stated, "I have taken a lot of abuse." Judge stated, "I resent that Mrs. Polyak."

On June 20, 1988, Petitioner was back again in United States District Court,Nashville with fourteen witnesses on subpoena for jury trial, but she was subjected without her consent to pretrial hearing in 1:86-0036 before Magistrate Kent Sandidge against 28 U.S.C. 636(c)(1).

Petitioner has been subjected to numerous harassements by the Clerks of the Court in scheduling second pretrial conference in 1:86-0036, and a few of the orders alleged scheduled jury trial and all were signed by Judge Higgins.

Petitioner prepared with puting fourteen witnesses on subpoena for jury trial again on

October 11, 1988, but Judge Higgins continued case without scheduled date for jury trial, which she submitted application for permission to Appeal to the Court of Appeals, which was denied. She has submitted motions to rescue Judge Higgins from all of her cases in writ of mandamus and motion to prohibit, but all of her mtoions are denied in the Court of Appeals, and all appeals denied in Pro Se Appellant's Brief and docket control. All Petitione for Hearing En Banc and Rehearing En Banc are immediately denied by Clerks and supported by Chief Judge.

The withholding of reasons for denial of rescue and reasons for dismissal of case discriminates against disabled Petitioner, who was unable to attend this fourth pretrial conference. She is excused from pre trial conferences in Rule 11(2) Rules of the District Court, but she has been scheduled nummerous times by Clerks despite her disability and the b"rden traveling either five hundred

(500) miles from Michigan, and over one thousand (1000) mile from Florida where she is obligated to reside in warm climate for her health problems.

The withholding of REASONS is discriminating against disabled Petitioner in the denial of federal protection of equal protection under diverstiy of citizenship and the denial of due process and deprivation of civil and constitutional laws and property rights pursuant to 42 U.S.C. 1981,1982, and 1983.

3. THE DISTRICT COURT WITHHOLDS INFORMATION FROM PRO SE LITIGANT IN APPEAL AS A RIGHT AND THERE IS NO OTHER MEANS FOR RELIEF

The district court withholds reasons for denial of rescue and dismissal of last case regarding unconstitutional sale of property in Lawrence county, and pro se litigant has no other means for relief in denial of federal protection of equal protection under State Statute Partition in Kind 29-27-117.

The court of Appeals for the Sixth Cir- Circuit denies certification of the validity

of this statute on which Petitioner relies pursuant to 1254(2)(3)(Statute in Br. 89-365).

There is no forum for relief of Petitioner in the State of Tennseee(See Writ of Certiorari in this Court Br. 88-1964).

The District Court has dismissed all complaints and demands for jury trial regarding the "taking and unconstitutional sale of pro se properties."

Judge Higgins denies independent complaint and demand for jury trial in filing as regular cases on New Evidence of Sale of Property pursuant to Rule 60.02(b) Federal Rules of Civil Procedure", and to entertain complaint for fraud upon the Courts. Petitioner must submit money complaint as almost all motions from pro se disregarded.

Judge Higgins continues to carry out the Honorable Thomas A Wisemnas' order to sanction pro se in the District Court on November 13, 1985. On April 30, 1986, Judge Wiseman stated in letter to John P. Hehman,"That order was

entered because of previous filings of Mrs. Polyak against various persons in this Court." Petitioner has no personal prejudice toward lawyers, and she has only filed complaints against the persons who set her up in hearing to "take her properties (See Br.89-365).

The Court of Appeals carries out this sanction without Petitioner being granted date, time and place for her defense by District Court.

Judge Higgins has just denied independent complaint and demand for jury trial in 1:87-75, which Complaint and counter-claim against Robert Boston's order on August 21, 1987 to sell properties for his invalid lein. Buford Evans & Sons submitted second invalid lein within three days which is provided for in Order, which must have been signed by Judge Hamilton, but is being held without entering.

Order on July 29, 1983 was held three months before entering in the chancery Court Court 1974 (See Br.89-365).

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Order on December 26, 1984, was held in Circuit Court of Lawrence County eight (8) months before entering for appeal and alleal as a right denied in motion to forward records on November 7, 1985.

Judge Higgins has denied filing as a regular case 1:87-0075(1-89-X-12, and disregards Motion in Writ of Habeas Corpus to bring case 1:87-0075(1:84-0082 & 1:84-0082) before the District Court.

Petitioner's properties have been sold in secret sale and waithing transfer and confirmation of sale without jury trial, any compenstiona and without appeal being heard in any Court. She suffers irreparable loss in the investment in restoration and maintenace of properties for thirteen (13) years,and the loss of a right to never be regained in her retrement home.

Petitioner believes this petition for writs will be an aid in this Court's appelleate jurisdiction to review this unconstitutional

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sale of properties without federal protection of equal protection under state statute.

4. THE GRANTING OF THIS PETITION WILL BE AN AID IN REVIEWING THE EXCEPTIONAL CIRCUMSTANCES TO SET ASIDE ORDERS IN DAMAGES FOR UNCONSTITUTIONAL SALE

Petitioner does not have any knowledge or expertise in the legal profession, and this limitation presents exceptional circumstances as she struggles to bring the facts in the "taking and unconstitutional sale"and transfer of her properties before this Supreme Court.

It appears that precise statements beyond her knowledge and expertise in the many briefs she has prepared, and pages 17-21 are required in the correction and return of this petition (Ex. 23).

Petitioner contends that the enjoin from filing compalints regarding the unconstitutitional taking and sale and transfer of her properties on November 13, 1985 is unconstitional denial of due process and deprivation of civil and constitutional laws and property

right of federal protection of equal protection provided in State Statute Partition in Kind 29-27-117 on which she relies pursuant 1254(2) as set forth in appeal 89-365, and 88-1964. This petition was submitted with motions to review above on September 29, 1989(App.A.p.22).

The petition for writ of certiorari shows THERE IS NO FORUM FOR RELIEF IN THE STATE COURTS. The many applications for permission to appeal this "unconstitutional taking" by various persons are denied and there is no appeal (App. A p. 22, 24, 25 & 26).

The granting of this petition will be an aid to this Court's appellate jurisdiction in review th sanction of pro se litigant for filing complaints against the unconstitutional taking of her propertiy by the Honorable Thomas A . Higgins in granting "absolute judicial immunity" to the Honorable Jim Hamilton Stste Judge, in the dismissal all cases,and and partial hearing, which are affirmed again,

and again in docket control in the United States Court of Appeals for the Sixth Circuit(See Enjoin App. A p.22).

Petitioner's properties have been sold without jury trial, any compensation, and without appeal ever being heard in any Court. She contends that the Court of Appeals has so far sanctioned this sanction of pro se litigant by District Judges in the Unconstitutional taking of her properties to call for this Supreme Court's power of supervision in granting this petition in aid of appellate jurisdiction and 28 U.S.C. 2403 may be applicable. The Solicitor General has been served.

5. THERE ARE PRESENT EXCEPTIONAL CIRCUM-CUMSTANCES WARRANTING THE EXERCISE OF THIS COURT'S DISCRETIONARY POWERS

This sanction of the pro se litigant against filing complaints in the District Court presents exceptional circumstance in which her properties have been sold and transferred by various state persons which warrents the excerise of this Courts discr-

etionary powers between the power to provide federal protection of equal protection of pro se litigant in the abuse of discrtion in conflict of interest and failure to rescue by Judge Higgins(App. A.p.2).

Petitioner was present in the District Court in Nashville on May 31, 1988, when Judge Higgins stated "I am a lawyer, I think in terms of one-third in answer to local lawyer(See Affidavit App. A.p. 2).

Petitioner observed this exceptional circumstances where Judge Higgins conducted partial hearing in 1:85-0125 Earlene Polyak v Thomas Stack and Henry Henry & Stack.

Petitioner is disabled and her appearance in court within two days after hospitalization took a great effort on her health, and she did not expect the Court to defend the Defendant's (TRANSCRIPT OF PROCEEDINGS).

These exceptional circumstances are set forth in Transcript of Proceedings, which is invalid in part in bias to Court and in pre-

District Court, which are are affirmed in the Court of Appeals for the Sixth Circuit (App. A. p. 22). (Judge Higgins returnedPETITION).

Petitioner has been informed that this sanction extends to all of the United States District Courts and Southern District Florida.

Judge Higgins has denied filing as REGULAR CASES all Petitioner attempts to start cases over on NEW EVIDENCE of Unconstitutional sale of property with out jury trial any compensation and without appeal heard in any Court. Judge Higgins states cases closed and gives numbers 3-89-X-16; 1-98-X-01; 1-89-X-03; 1-98-X-04; 1-89-X-05;1-X-06; 1-89-X-07; 1-89-X-9; 1-89-X-10; 1-89-X-11; and 1-89-X-12

Judge Higgins dismissed last chance for relief in the unconstitutional sale of Petitioner's properties against attorney for the family since 1976, who divided loyalties after seven years, and prepared UNAPPEALABLE JUDGMENT, AND FIRST ORDER TO SELL PROPERTY on September 15, 1989. She understands that jury

trial is required to determine damages.

On the same day, Judge Higgins denied timely and proper motion to rescue pursuant to 28 U.S.C. 144 in 1:86-0036.

On the same day Judge Higgins denied Motion for a continuance and Motion to Transfer case, but did not address Motion to Transfer Case to the United States District Court, Southern District of Florida where pro se resides in warmenr climate on physicians instructions due to heart failure and complcations (See FAX LETTER App.A. p.29).

The appeal to 1:86-0036 is SANCTION and blocked by Judge Higgins disregard and failure to act on Motion to Verify Findings of Fact pursuant to Rule Rule 4 52(b) Federal Rules of Appellate Procedure(App. A.p.37 FAX p.29).

Judge hIggins disregards Application for Writ of Habeas corpus in 1:87-0075 Complaint and counter-claim to sale of property remanded to state Court on September 29, 1987 for sale, and relief cannot be had from any Court(App. 20).

CONCLUSION

Petitioner prays that a writ of prhobi bition issue against unconstitutional sale of disabled Petitioner's properties, and that a writ of mandamus issue to review the denieal of motion to rescue in good faith, and the dismissal of without considering transfer and withholding of reasons from appeal as a right without any federal protection.

On the 30th day of September, 1989.

Respectfully submitted,

Earlene Polyak (407)627-
4063 Hood Road 3564
Palm Beach Gardens
Florida 33410

Certificate of Service

I certify that an exact copy of this p;eading has been mailed first Class to the Honorable Thomas A. Higgins, United States District Court, Nashville, Tennessee 37203.

STATE OF FLORIDA
COUNTY OF PALM BEACH Earlene Polyak

Notary Public My commission expires:

APPENDIX A

This appendix pertians to recent orders from the United States District Court in Case No. 1:86-0036 Earlene Polyak v William Boston Boston Bates & Holt dismissed after timely Motion to Rescue filed on August 3, 1989, on September 15, 1989.

This court is referred to Appeal in this Court No. 89-365 Earlene Polyak v Thomas Stack and Henry henry 7 Stack.

And 88-1964 Earlene Polyak v Jim Hamilton Judge, and the chancery and Circuit courts of Lawrence County, from the Supreme Court of Tennessee.

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE

EARLENE POLYAK
Plaintiff

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JURY TRIAL DEMAND
1:86-0036

v

WILLIAM BOSTON AND
BOSTON BATES & HOLT
Defendants

MOTION TO RESCUE

Plaintiff believes that the Honorable Thomas A. Higgins before the above styled case is pending has a personal bias in favor of counsel for, and above named parties, and all lawyers, and this personal prejudice against pro se litigant in the District Court is extended through the appellate process.She believes that this personal prejudice is extrajudicial in nature and moves that Judge Higgins rescue from the above styled case, and all cases regarding Plaintiff and her properties pursuant to Rule 28 U.S.C. 144.

This motion to rescue is timely submitted for filing and Plaintiff makes Affidavit as follows:

On the 1st day of August, 1989.

Respectfully submitted,

Earlene Polyak
3179 Middlefield Drive
Trenton, Michigan 48183
(313) 676-3364

Certificate of Service

I certify that a true copy of this pleading has been mailed First Class to Robert Boston, 2100 One commerce Place, Nashville, Tennessee 37203.

Signed Earlene Polyak

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE

FILED 8 3 89

EARLENE POLYAK
Plaintiff

v No. 1:86-0036

WILLIAM BOSTON AND
BOSTON BATES & HOLT
Defendants

AFFIDAVIT

AFfiant Earlene Polyak deposes and says:

That she believes the Honorable Thomas A Higgins has a personal bias for counsel for, and above named lawyers, and all lawyers, and personal prejudice against pro se litigant.And that this prejudice against Plaintiff is extended throught the judicial processin the applelate courts. All cases have been dismissed in docket control.

On May 31, 1989, Affiant overheard Judge Higgins saying,"I am a lawyer, I think in term of one-third." That Affiant has admitted she does not have any knowledge or expertise in the legal profession. And that she thought the Courts were established to meet the needs of

the people. That she did not expect to be judged by a lawyer.

On May 12, 1986, Judge Higgins stated in first order after resuming Affiant's cases that she was guilty. That Affiant does not find where the Honorable Thomas A. Wiseman stated that she was guilty in order of rescue on May 2, 1986, or any other order. And that this assumption is extra judicial to order.

That Affiant was scheduled for pretrial conference on Robert Boston's motion on July 1 1986, signed by Judge Higgins.And that pro se exempt from pretrial conference pursuant to Rule 11(2) Rules of the District Court.

That Affiant suffers from heart problem and related complications and was scheduled for further evaluation and treatment of back injury of December 1985. And that Affiant was obligated to make repeated attempts including motions by Express Mail, and finally resorted to Telegram for continuance on July 1, 1986. Over hundred (100) people died in heat-wave.

On July 17, 1986, Judge Higgins granted one day continuance, but closed case. And that either party could open case on good cause, but Affiant would have to have a medical certificate.That Affiant believes counsel for the Defense would know what District Judge considers "good cause." Jury trial was schedul ed only after expensive appeal to Supreme Court.

On September 18, 1986, Affiant submitted motion for disqualification to Judge Higgins. On September 24, 1989, Judge Higgins denied motion to disqualify and remanded Affiant's Complaint and Counter-claim to state court without allowing five days for objection on September 29, 1987(1:87-0075).And motion to Reconsider with affidavit pending to this date

On August 21, 1987, Robert Boston submitted second order to sell Affiant's proper ty on his invalid lein upon her "interest therin". This lein obtained from submiission of materials as complete state case(1:84-0083)

no final order in state case.Initial order on October 19, 1983, prepared by Boston Bates & Holt without any constitutionally provided compensation, which awarded Defendants Thomas Stack Henry Henry & Stack costs and attorney fees. Chancery 1974(state case) dismissed on Affiant's appeal to UNAPPEALABLE JUDGMENT.

On October 28, 1987, judge Higgins held status conferencewhile Affiant in Cardiac Unit of Universtiy of Alabama Hospital. Clerk denied receiving telegram from hospital bed, but Western Union signed verifies signed by receptionist at District Court. Judge Higgins dismissed three cases with prejudice 1:84-0082,1:84-0083 and 1:85-0120 Buford Evans & Sons v Earlene Polyak(counter-claim)joined in the District Court to 1:85-0116Earlene polyak v Jim Hamilton and the Circuit Court of Lawrenc County under 28 U.S.C. 1441(c). This second invalid lein was obtained when Mr. Evans went upon Affiant's property and conducted invalid without her knowledge or permission. Mr. Evan

filed second lein upon Affiant's property within three days after Robert Boston's order on August 24, 1987.

On April 1, 1988, Affiant learned property sold while ill in Florida, including Travel Trailer from front yard advertised in local Advocate, and party makes Affidavit(Ex.1 Affiant has not been notified of amount of sale, where money kept, or order of sale entered for appeal as a right of redemption pursuant to Tennessee laws. Judge Higgins disregards sale without due process.

On May 31, 1988, after Judge Higgins asked Thomas Stack and Bruce Peden and introduced them to the jury as lawyers, Affiant asked Judge to rescue in the presence of this bias in open Court.

Judge Higgins started shouting at Affiant and threatening to dismiss case with first witness on subpoena. Judge took over questioning of each witness on subpoena and finally refused to allow her to question Tom Moore

about Tennessee Rules of Professional responsibility, which, she understands, is the grounds to prove negligence.Affiant did not complain of malpractice, which belongs to the Medical Professionin No. 1:85-0125 Earlene Polyak v Thomas Stack Henry Henry & Stack.

That Affiant was scheduled for pretrial conference in 1:86-0036, in addition to pretrial conference in 1:85-0125 on May 25, 1988, on the same day. That Affiant developed heart pains and hospitalized, but she was in District Court ready for trial on May 31, 1988. And that Affiant was afraid she would never get to trial is she asked for continuance due to health.

hat Affiant was present in the District for jury trial with fourteen witnesses on sub poena on June 20, 1988(1:86-0036 Earlene Polyak v William Boston boston Bates & Holt) but pretrial conference held without her consent (before magistrate) pursuant to 28 U.S.C 636(c)(1) amended 96-82. And that Robert Boston

was allowed to supress Affiant's Final Pre-trial Order and prepare Final Pretrial Order with bias to his father, William Boston Boaton Bates & Holt with dismissal on its face.Affiant was in Nashvill when notified of pre-trial conference signed by Judge Higgins.

That Affiant prepared with fourteen witnesses on subpoena for trial again on October 11, 1988, but Judge Higgins continued trial without date on October 7, 1988. And that Affiant prepared again with notification to fourteen witnesses on subpoena for trial on May 1, 1988.

That Robert Boston bragged about all of the money he was making ogg Affiant in repren sation including the Honorable Jim Hamilton in Court on May 31, 1988. And that Robert Boston submitted motion for dismissal while Affiant ill after release from hospital on April 28, 1989. that robert boston submitted charges for eleven thousand dollars for time in scrupulous records for defense at his

discreation(of named parties(Br. P. 8). And that Robert Boston awarded costs and fees in 1:84-0083(amount used in lein for advertised sale of properties).

That although Affiant suffers from incurable heart disease, she strongly believes tjat her property should not be sold without compensation, jury trial for relief in damage and without appeal ever being heard in any Court.

That in view ot the above, Affiant believes that any attempt for relief from the "taking" of her property before Judge Higgins would be dismissed regardless of facts and circumstances.

On August 2, 1989.

Signed Earlene Polyak

STATE OF MICHIGAN
COUNTY OF WAYNE

Mildred L Brochue Commission ex: 6-10-92
Notary Public

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
COLUMBIA DIVISION

EARLENE POLYAK
Plaintiff

V

1:86-0036
Judge Higgins

WILLIAM BOSTON AND
BOSTON BATES & HOLT
Defendants

CERTIFICATE OF GOOD FAITH

I certify that the Motion to Rescue and Affidavit submitted and received in the United States District Court on August 3, 1989 over ten days prior tp hearing to pretrial conference and jury trial is made in good faith pursuant to 28 U.S.C. 144:

Plaintiff has set forth the many reasons why she believes the Honorable Thomas A. Higgins is biased in favor of adverse party and prejudiced against her.

On the 22nd day of August,1989.

Earlene Polyak
3179 Middlefield Dr.
Trenton, Michigan 48183

Certificate of service

I certify that a true copy of this plead ing has been mailed to Robert Boston 2100 One Commerce Place, nashville,Tennessee 37203.

Signed Earlene Polyak

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
COLUMBIA DIVISION

EARLENE POLYAK FILED 8 22 89

V No. 1:86-0036
Judge Higgins

WILLIAM BOSTON et al.

ORDER

This action, set for jury trial on Monday October 16, 1989, is reset for trial on Tuesday, October 17, 1989, at 9:00 a.m., at Nashville.

The pretrial conference scheduled for Friday September 15, 1989, at 9:00 a.m. shall likewise be held at Nashville.

If this action is to be settled, the Courtroom Deputy shall be notified by noon, October 13, 1989. If a settlement is reached thereafter resulting in nonutalization of jurors, the costs of summoning jurors, the costs of summoning jurors may be taxed to the parties dependent upon the circumstances.

It is so ORDERED.

Signed Thomas A. Higgins
United States District Judge

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
COLUMBIA DIVISION

EARLENE POLYAK FILED 9 18 89

V No. 1:86-0036
Judge Higgins

WILLIAM BOSTON et al.

ORDER

For reasons stated on the record at the hearing on September 15, 1989, the plaintiffs motion to continue the pretrial conference (filed September 14, 1989) is denied and this action is dismissed with prejudice.

It is so ORDERED.

Signed Thomas A. Higgins
United States District Judge

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
COLUMBIA DIVISION

EARLENE POLYAK

FILED 9 18 89

No. 1:86-0036
Judge Higgins

v

WILLIAM BOSTON et al.

ORDER

The plaintiff's motion to rescue filed August 3, 1989 Docket Entry No. 134) is denied for the reasons stated on the record at the hearing on September 15, 1989.

It is so ORDERED.

Signed Thomas A. Higgins
United States District Judge

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE

FRANK HULEN AND
WILMA LESNANSKY

FILED SEPT 25 1989

V

GENERAL DOCKET NO.
1-89-X-12

EARLENE POLYAK(Counter-Claim)

ORDER

In accordance with the memorandum contemporenaneously enter, the Clerk is directed not to file the complaint submitted by Earlene Polyak as a regular case. The Clerk is further directed to assign a General Docket case number to the complaint and to return the $120.00 filing fee to Mrs. Polyak.

Signed Thomas A Higgins

United States District Court

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE

EARLENE POLYAK

PLaintiff

v

FRANK HULEN AND
WILMA LESNANSKY

FILED SEPT 25 1989

TO CHIEF JUDGE

DEMAND JURY TRIAL

No. 1:87-0075
(1:84-0082 & 1:84-0083

(Not filed as a regular case 1-89-X-12).

Orer denied 10-3-89 judge Higgins

APPLICATION FOR WRIT OF HABEAS CORPUS TO BRING BEFORE THIS COURT

Applicant applies for writ of habeas corpus to bring complaint and counter-clain for relief in damages in UNCONSTITUTIONAL SALE OF PROPERTY before this Court for jury trial, submitted on September 8, 1989.

Although Clerk denied receiving this complaint and jury demand to reinstate case. This case was was included in the same Express package with motion a continuance. Applicant for Case No. 1:84-0082Frank Hulen and Wilma Lesnansky v Earlene Polyak , and 1:84-0083 Earlene Polyak v Frank Hulen and Wilma Lesnansky be brought before this Court 1:87-0075.

Applicant contends that the sale of her properties in Lawrence County is unconsti-

tutional for "interest therein" on Robert Boston's invalid lein and this order of sale is being held without entering for appeal and right of redemption, against Tennessee Statute Partition in Kind 29-27-117, And this is the second time (fifth time) orders have been held without entering in(Courts)of Lawrence County.

On July 29, 1989, order held without entering three(3) months later on October 19, 1983. On December 26, 1984, order held without entering until eight (8) months later, on August 7, 1985, Judge Hamilton has tried to sell property on Nonsuits 10611Earlene Polyak William boston boston Bates & Holt, and 10612 Earlene Polyak v thomas Stack Henry Henry & Stack, and this is the FOURTH time property scheduled for UNCONSTITUTIONAL SALE against State Statue 29-27-117.

On 25th day of September, 1989.

Signed Earlene Polyak(407)6273564
4063 Hood Rd. Palm Beach Gardens
Florida 33410

I certify that a true copy of this pleading has been mailed to Robert Boston, 2100 One Commerce Place, Nashville, Tennessee 37239.

Signed Earlene Polyak

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
COLUMBIA DIVISION

EARLENE POLYAK
Plaintiff

FILED NOV 13 1985

v

No. 1:85-0116
Judge Wiseman

JIM HAMILTON, severaly and
in Judicial Capacity, as Judge,
AND THE CIRCUIT COURT OF
LAWRENCE COUNTY

ORDER

For reasons stated in the Memorandum contemporanously filed herewith, the application for extraordinary relief is denied and the case is dismissed on the Court's own motion. No process shall issue but a copy of this memorandum and order will be mailed to defendants.

Plaintiff Polyak is expressly enjoined from filing any further actions in this Court regarding partition sale of property in Lawrence County without the express permission of this Court.

Signed Thomas A. Wiseman Jr.

OFFICE OF THE CLERK
Supreme Court of the United States
Memorandum

Nov. 8,1989

Mrs. Polyak,

The material on pages 17-21, of your petition for an extraordinary writ relates to the merits of your argument as to why the petition should be granted. Perhaps some of your argument of what you have in this section overlaps with the statements and showing you must make that the granting of the petition would be in aid of the Court's appellate jurisdiction, that exceptional circumstances are prserent and that relief cannot be obtained in any form or from any other Court.

Signed Joseph Spaniol

SUPREME COURT
State of Tennessee
NASHVILLE 37219

A.B. NEIL, JR.
CLERK

March 8, 1989

Mrs. Earlene Polyak
4063 Hood Road
Palm Beach Gardens, Fl 33410

Re: Earlene Polyak
vs.
The Honorable Jim
Hamilton

Dear Mrs. Polyak:

This will acknowledge receipt of your Notice of Appeal in the above case.

Since there is nothing further to appeal in this case in any of the appellates courts of Tennessee, I must assume that your Notice of Appeal must be directed to the Supreme Court of the United States.

Very truly yours,
Signed by A.B. Neil Jr.

COURT OF APPEALS
STATE OF TENNESSEE
NASHVILLE 37219

September 9, 1985

Dear Counsel:

Re: BUFORD EVANS V EARLENE POLYAK

We are returning herewith the copy of the Notice of Appeal forwarded to this office in the above case.

An amendment to Rule 5(a) of the Tennessee Rules of Appellate Procedure effective August 15, 1984, deleted the requirement that a copy of the Notice of Appeal be filed with the Clerk of the Appellate Court.

Signed Ramsey Leathers
Ramsey Leathers, Clerk

CHANCERY COURT OF LAWRENCE COUNTY, TENNESSEE

FRANK HULEN, ET AL
Plaintiffs

FILLED OCT 19 1983

v

CIVIL ACTION NO. 1974

EARLENE POLYAK
Defendant

ORDER

This cause came on to be heard this the 29th day of July 1983, before the Honorable Jim T. Hamilton, Judge, Part II of the Circuit and Chancery Court in Lawrence County, Tennessee. While holding Chancery Court for Lawrence County, Tennessee, upon complaint hereto filed in this cause, the Answer therto, the testimony of witness in open Court, and the entire record in this cause, whereas at the conclusion of which defendant's attorneys were granted the privilege of presenting a brief to the Court within a reasonable time, after the conclusion of which the Court found in memo dated August 11, 1983, the following:

1. That the property in question consists of approximately 40 acres, which belonged to the parties mother.

2. That the property cannot be partitioned in kind as there are three distinctly different types of property within the 40 acres. One portion of the property includes the home place, well and barn, another portion contains woods and is a low lying wet area, and the remaining portion consists of level flat land which is suitable for raising crops.

3. The Court finds there is no way to divide this land equally between these heirs, without selling said property and dividing the proceeds.

4. The proceeds of this sale after payment of all expenses incident to sale, including attorney fees will be divided equally between the heirs, except that the cost of this case shall be deducted from the defendant's share of said proceeds.

5. This sale shall be conducted by Eulan Hooper unless the parties agree on another real estate company.

All of which is therefore, ORDERED AND DECREED by the Court.

This the 19th day of October, 1983.

Signed Jim T. Hamilton
Jim T. Hamilton, Circuit

APPROVED FOR ENTRY:
BOSTSON BATES & HOLT

Signed William Boston
Attorney for PLAINTIFF
Signed Thomas Stack

Hon. Thomas A. Higgins FAX LETTER
United States district Court
800 Broadway
Nashville, Tennessee 37203

Re:1:860036 Complaint and Demand for Jury Trial;Motion for a Continuance in Reply to Robert Boston's Motion for Continuance trial date before this Court (submitted August 24, field August 25, 2989 by Express Mail). Motion to Rescue (filed) 8-3-89.

Motion for a Continuance due to burden on on health;sinus infection 8-15-89 to this date ;cancelled presentine test for heart failure when forecast for cold and rain in Michigan, with below normal temperatures,and son brought to Florida(warm climate prescribed by physician).

EXPRESS PACKAGE: Motions must be in Court by Express Mail 9-13-89, Motion to continue pretrial conference and Motion Transfer Case 1:86-0036 to U S.D.C,Southern District of Florida 9-13-89.

Pending Actions.

5 cases Court of appeals

2 cases U.S.DC. Southern Dist Florida.

2 cases Supreme Court

Also notified R. Boston Express Mail 9-13

-89.

Plaintiff was in Court on June 20, 1988 with fourteen (14) witnesses on subpoena *

On September 15, 1989.

Respectfully submitted,

signed

Earlene Polyak
4063 Hood Road
Palm Beach Gardens,
Florida 33410
(407) 627-3564

* Clerk did not issue subpoenas
Clerk did not issue letter to activate subpoenas

TRANMISSION REPORT

Halsey Griffith LP Sept 15 89 09:34

Date Start time	Remote Terminal identification
Sept 15 9:33(8:33 Nashville)	8 852 7488

Mode	time	Results	total pages	Dept Code
G3st	0056	OK	Oi	

Statement of Certification

I certify that a ture copy of this Fax letter has been mailed to robert Boston, 2100 One Commerce Place, Nashville, Tennessee 37219.

Signed Earlene Polyak

AFFIDAVIT

To whom it may concern:

My name is Mary Mitchell. I live at R#3, Box 63B, Lawrenceburg, Tennessee 38464.

On or about September thru Nov. 1987, I was reading my newspaper,the lawrence County Advocate, when a familiar name cought my eye. The name of the person was Earlene Polyak. Realizing I had met her on three occasions in the past,I read more, out of curosity. The contents of the articlerevealed the intent to sale of some property that sounded familiar to me. In some correspondance in which I last received from Earlene Polyak some years ago.She had revealed to me that she owned a mobile home situated on some property herein Lawrence County, Tennessee.Upon meeting her again some six motnhs after I read the articel,I casually mentioned it to her, at this time she informed that she knew nothing of this. This is all the knowledge I have of this situation.

Signed Mary Mitchell

COUNTY OF LAWRENCE
STATE OF TENNESSEE

Sworn and subscribed before me this 18th day of June, 1988.

My commission expires: 8/18/88

Signed Mabel Evelyn Hedgepath

Notary Public.

CHANCERY COURT OF LAWRENCE COUNTY, TENNESSEE

FRANK HULEN AND
WILMA LESNANSKY
Plaintiffs

NO ENTRY DATE
Civil Action No. 1974

v

EARLENE POLYAK
Defendant

ORDER

Upon motion of Plaintiffs to sell that certain parcel of land formerly at issue in this lawsuit, said sale having previously been ordered by this Court and said Court having been affirmed through all stages of the Appellate process, it is hereby ordered as follows:

1. Col. Eulan Hooper is hereby authorized and directed to advertise, on behalf of the parties herein, the sale of land in Exhibit 1 hereto under the following terms and conditions of this order:

Mr. Hooper will advertise said sale in a newspaper of general circulation in Lawrence County Advocate said sale to be conducted at

public auction pursuant to this order on a Saturday at 10:00 a.m., said date to be determined by Mr. Hooper and set out in the advertisements, and not to be less than 21 days following the entry of this order. Said advertisement shall be run in no less that three separate issues of said newspaper prior to the date of such sale. Said sale shall be conducted in a manner consistent with normal and usual practice for auction sales held in Lawrence County, Tennessee and the land shall be sold to the highest best bidder for case, 10% of payment to be delivered on the date of sale and held by Mr. Hooper in trust for deposit into the registry of the Court on the following Monday. The remainder shall be due by 12:00 noon on aforesaid "following Monday payable to the Lawrence County Clerk and Master's office, who shall in turn deposit into the Court's registry.

2. Upon deposit of said funds into registry of this Court, the Clerk and Master is directed and authorized to prepare an

appropriate deed conveying title to the property as ordered herein to the purchaser of said land at auction, or his or her designee or assign. Said deed shall divest all parties hereto of all right, title and interest in and to said land pursuant to this and previous orders of this Court.

3. Upon delivery of the above-referenced deed, and payment of the purchase price for the land into the registry of this Court, the Clerk and Master shall divide the net proceeds equally among the parties hereto, after having paid Eulan Hooper a fee for his services in connection with said auction as ordered herein in the amount of 6% of the gross amount received at said auction, plus reimbursements for any reasonable costs incurred in conducting said auction sale. In addition, the Clerk and Master shall be paid a fee for her services as set out herein in the amount of $250.00, and shall pay from defendant's portion of the proceeds, all Court

costs incurred since this case initially filed. Thereafter, the Clerk and Master shall pay to parties hereto the net amount due each party pursuant to the Court's partition, subject, however, to payment by the Clerk and Master all debts of all creditors of record of any party who have a lein against any interest in said land as a result of leins against party's interest therein. Such leins of record shall attach to the proceeds of the land the same as same attached to the actual land.

4. All other matters are reserved pending further of the Court.

So ordered this _____ day of September, 1987.

Hon. Jim T. Hamilton, Circuit

APPROVED FOR ENTRY:

Signed Robert Boston
Attorney for Plaintiffs

Lein placed by Robert Boston on December 12, 1984 NOTE BOOK 19, p. 270, Lein Book 7, pp. 497-499 by Geneva Frisbee. This lein for

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
COLUMBIA DIVISION

EARLENE POLYAK
Plaintiff

V

WILLIAM BOSTON AND
BOSTON BATES & HOLT
Defendants

FILED OCT 13 1989

No. 1:86-0036

NO ORDER TO 11/14/89

MOTION FOR VERIFICATION OF
FINDINGS OF FACTS
IN DENIAL OF REHEARING EN BANC

Plaintiff moves that the Court verify findings of facts in the Motion for Continuance of Pretrial Conference on September 15, 1989.

1. That order dismissing case does not give reasons for dismissing motion for transfer of case 1:86-0036 filed in the United States District Court,Southern District of Florida, West Palm Beach Florida on September 14, 1989, and filed in the United States District Court, Middle district of Tennessee September 14, 1989. Petition for Rehearing En Banc denied September 25, 1989.

2. That motion to transfer case pursuant

to 28 U.S.C. 1404(a) was filed in this Court (in motion for continuance) on September 14, thirty-three (33) days prior to alleged jury trial date on October 16, 1989. That this trial date continued on Robert Boston's motion for a continuance (within five days of receiving) on August 8, 1989.

3. That Plaintiff's Reply to Rescheduling Jury trial submitted on August 24, 1989, was filed on August 25, 1989 incrued motion continu

4. That order dismissing case 1:86-0036 did not contain resaons for dismissal at second (2nd) pretrial conferenceon September 15, 1989

5. That motion to rescue filed on August 3 1989 (28 U.S.C. 144) and order of dismissal does not contain reasons.

6. That motion for disqualification in 1: 86-0036 and 1:85-0125 Earlene Polyak v Thomas Stack and Henry Henry & Stack was denied on September 24, 1987 on Case No. 1:87-0075 Frank Hulen and Wilma Lesnansky v Earlene Polyak, and motion for reconsideration pending before this

Court on October 11, 1989, belongs to 1:870075

7. That Plaintiff was present in U.S. District Court in Nashville, Tennessee on May 31, 1988. (Partial hearing 1:85-0125 dismissed).

8. That Plaintiff was peesent in U.S. District Court in Nashville, Tennessee on June 20, 1988. (No trial (pro se excluded pre trial).

9. That Plaintiff notified Court in Motion for continuance and transfer case by Express Mail received on September 13, 1989, And FAX LETTER at 8:34 a.m. on September 15, 1989. (She was unable to be in Court).

10. That motion for continuance (Second) pretrial conference and transfer of case was not acted upon by this Court except in denial of petition for rehearing motion for a continu ance and transfer case en on September 25,1989

12. That Plaintiff supported motion for a continuance pretrial conference and transfer case with medical statements. she has been hospitalized two times(for times) since September 15, 1989.

On the 11th day of October, 1989.

Respectfully submitted,

Signed Earlene Polyak
4063 Hood Road
Palm Beach Gardens
Florida 33410

Certificate of Service

I certify that a true copy of this pleading has been mailed to Robert Boston, 2100 One Commerce Place, Nashville, Tennessee 37203

Signed Earlene Polyak

CHANCERY COURT OF LAWRENCE COUNTY, TENNESSEE

FRANK HULEN ET AL
Plaintiff

FILED DEC 19 1983

v

No. 1974

EARLENE POLYAK
Defendant

JUDGMENT

This cause came on to be heard on this the 19 day of December 19, 1983, before the Honorable Jim T. Hamilton, Judge upon the motion this day filed by Defendant, personaly on her own behalf, state and argumentof the Defendant personally from all which the Court finds there to be no merit, and said motion is here and now overruled.

This 19th day of December, 1983.

Signed Jim T. Hamilton

CERTIFICATE OF SRVICE

The undersigned certifiesthat a true copy of this pleading addressed to said counsel at his office .

Signed Charles Holt
Boston Bates & Holt

State case dismissed on above UNAPPEALABLE JUDGMENT on April 24, 1984, NO FINAL ORDER.